

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

OLDCASTLE PRECAST, INC.,

Plaintiff,

v.

VPMC, LTD.,
JOSEPH R. GAMBONE, JR.,
MICHAEL A. GAMBONE,
AUDREY GAMBONE, co-executor of the
ESTATE OF ANTHONY R. GAMBONE,
SR, MICHAEL A. GAMBONE,
co-executor of the ESTATE OF
ANTHONY R. GAMBONE, SR.,
GEORGE J. FALCONERO, co-executor
of the ESTATE OF ANTHONY
GAMBONE, SR., SANDRA LEE
GAMBONE, co-executor of the ESTATE
OF ANTHONY GAMBONE, SR., and
SHARON ANAPOSIKY, co-executor of
the ESTATE OF ANTHONY
GAMBONE, SR.,

Defendants.

CIVIL ACTION

No. 12-6270

ORDER

AND NOW, this 26th day of July, 2013, upon consideration of Defendants, VPMC, Ltd., Joseph R. Gambone, Jr., Michael A. Gambone, Audrey Gambone, George J. Falconero, Sandra Lee Gambone, and Sharon Anaposiky's (collectively, "Defendants"), Motion for Reconsideration and Clarification of this Court's May13, 2013 Memorandum and Order (Doc. No. 19), and Plaintiff, Oldcastle Precast, Inc.'s ("Oldcastle"), Response, it is hereby **ORDERED** that said Motion is **DENIED** as moot.

It is **FURTHER ORDERED** that:

1. Oldcastle's alter ego and participation claims (Count VIII of the Amended Complaint)

against both the VPMC Principals and Michael Gambone are **DISMISSED** with prejudice;

2. Oldcastle's Cross-Motion for Reconsideration (Doc. No. 20) is **DENIED** as untimely;

3. Oldcastle's request to amend its Amended Complaint to include a breach of contract claim against VPMC is **DENIED**; and

4. Defendants shall have fourteen (14) days from the date of this Order to renew their Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(7) solely on the issue of "indispensable parties," if they so choose.¹ If Defendants file such a Motion, Oldcastle shall have ten (10) days to file a Response and include any argument concerning this issue that was not included in its Supplemental Brief that was filed on June 26, 2013.

BY THE COURT:

/s/ Robert F. Kelly
ROBERT F. KELLY
SENIOR JUDGE

¹In our May 13, 2013 Order, we ordered Defendants to "supply Oldcastle with requested discovery regarding the 'ownership structure and financial organization' of Ridgewood, GDC, GAC, and VPMC, Ltd. that has not already been disclosed in Defendants' answers to this Court's questions concerning the issue of indispensable parties." (Doc. No. 18.) We also stated that after supplying such discovery, Defendants could renew their Motion to Dismiss if they so chose. (*Id.*) Oldcastle has informed this Court that it is satisfied with the discovery supplied by Defendants concerning the issue of indispensable parties in accordance with this Order. Accordingly, we now give Defendants the option of renewing their Motion on this issue.